

5I - SECTION 105 and 105c SCHOOLS of CHOICE PUPILS

Accepting nonresident pupils under Sections 105 and 105c Schools of Choice is a district decision. The district must determine if the schools of choice will be specific to a building, a grade level, or a specific program. The district must also determine if the district will accept pupils from districts within the ISD boundaries (Section 105), accept pupils from districts within the boundaries of an ISD that is contiguous to the ISD of the enrolling district (Section 105c), or both. The district shall not charge tuition for pupils who are enrolled under Section 105 or Section 105c. The resident district's approval is not required for pupils enrolled under Sections 105 and 105c.

A. Pre-enrollment Requirements of the District

The district must abide by specific time-lines and comply with specific criteria in the application and selection process. Failure to meet the requirements under Sections 105 and 105c may result in a state school aid penalty.

1. A district having a limited number of spaces and enrolling Section 105 or Section 105c nonresident pupils must do the following:
 - U** Not later than the second Friday in August, publish the grade levels, school (building), and specific programs, if any, for which enrollment may be available to, and for which applications will be accepted from, nonresident applicants. The publication must also specify if the applicants must be residents of the intermediate school district; or, if the applicant must be a resident of the intermediate school district or any intermediate school district contiguous to the intermediate district of the enrolling local school district. The publication must specify the place and manner of application and the dates when the applications will be accepted. (This includes returning section 105 and 105c pupils, except pupils who have been continuously enrolled in the district since 1995-96.)
 - U** The application period must be a minimum of 15 days, ending no later than the end of the first week that school is in session.
2. The district must use a random draw system, if necessary (as required in subsection (13)) to determine which nonresident applicants will be allowed to enroll in that grade level, school (building), or specific program. Notification to the parent or legal guardian of the nonresident applicant who has been accepted for enrollment shall contain notification of the

date by which the applicant must enroll in the district as well as the procedures for enrolling.

3. The district must do the following no later than the end of the first week of school:

- U** the district shall notify the parent or legal guardian of the applicants that have been accepted.
- U** determine that positions remain available due to accepted applicants failing to enroll or because more positions were added, the district may enroll nonresident applicants from the waiting list maintained in accordance with subsection (13), offering enrollment in the order that applicants appear on the waiting list.

NOTE: positions that remain available or become available after enrolling all applicants from the waiting list may not be filled until the second semester enrollment under Sections 105 or 105c; or, until the next school year. (This does not prevent nonresident tuition pupils from enrolling throughout the year.)

4. Not later than two weeks prior to the end of the first semester, the district shall publish the grade levels, school (building), of specific program, if any, for which enrollment for the second semester may be available. The district may receive applications during that two week period. By the beginning of the second semester, using the random drawing and waiting list procedures as required under Sections 105 and 105c, the district shall determine which nonresident applicants will be allowed to enroll in the district. Notification to the parent or legal guardian shall specify which grade level, school (building), of specific program, if any, for which the applicant has been accepted and the date by which the applicant must enroll in the district and the procedure for enrollment.

B. Other Specific Regulations Under Sections 105 and 105c

A district may limit the number of nonresident pupils it accepts in a grade level, school (building), or specific program, if any, and may use that limit as the reason for refusal to enroll an applicant. However, a district may not grant or refuse enrollment to an applicant based on:

- U** intellectual, academic, artistic, or other abilities, talents, or accomplishments, or lack thereof.
- U** mental or physical disabilities, except that the applicant does not meet the criteria (other than residency) that a resident must meet to be accepted for enrollment in a grade level or a specialized magnet, or intra-district choice school or program, for which the applicant applies.

U age, except for a program that is not appropriate for the age of the applicant.

U religion, race, color, natural origin, sex, height, weight, marital status, or athletic ability, or generally, in violation of a state or federal law prohibiting discrimination.

A district **may** refuse to enroll a nonresident applicant if that applicant is, or has been suspended or expelled from another district within the preceding two years.

C. Eligibility to Count the Nonresident Pupil for Membership

1. A local school district that elects to enroll pupils under Sections 105 or 105c **Schools of Choice program** may count a nonresident pupil in membership if the district has evidence that the pupil meets **one** of the following criteria:

U The pupil is a nonresident, but is a resident of another district within the same ISD. The local district may only count this pupil in membership if all Schools of Choice 105 requirements have been met.

U The pupil is a nonresident, but is a resident of another district within an ISD that is contiguous to the educating district's ISD. The local district may only count this pupil in membership if all Schools of Choice 105c requirements have been met.

U The pupil was enrolled in and attended the district in the school year immediately preceding the school year in question. A district shall give preference to this pupil, along with other school-age children who reside in the same household as the pupil.

U The pupil is a nonresident but has been enrolled continuously in the district since a year in which the district enrolled nonresident pupils in accordance with Section 105 or 105c.

U The pupil was enrolled in and attended school in the district as a nonresident pupil in the 1995-96 school year and continues to be enrolled each school year in that district. The district shall allow this nonresident pupil to continue to enroll in and attend school in the district until high school graduation without requiring the pupil to apply for enrollment in the Schools of Choice program.

2. A local school district that enrolls a **special education pupil under a Schools of Choice program** will become that pupil's resident district for purposes of developing and implementing an individualized education plan (IEP), and will become responsible for the education of and providing (or arranging for the provision of) services for the pupil. Section 105c (contiguous) contains an additional requirement that the choice district must enter into a written cooperative agreement with the special education pupil's resident district as to the payment of added costs associated with the pupil's programs and as to how services will be handled.

3. A local school district may enroll and count in membership a nonresident pupil as a parent paid tuition pupil in those buildings and/or programs which are not designated as Choice programs; or may enroll and count in membership a nonresident pupil in a Choice program after the specific deadlines have passed. To count the pupil in membership, approval from the resident district must be obtained. This pupil is not considered a Schools of Choice pupil.
4. A local school district may participate in a cooperative education program with one or more local or intermediate districts in addition to operating a Schools of Choice program.

NOTE: Schools of Choice does not apply to a pupil residing in a district that does not operate all of the grades K to12 who is enrolled in a district, other than the district of residence, in a grade that is not offered by the district of residence. (Such a pupil is reported in residency as a Non-K12 pupil.)

NOTE: A district is not required to provide transportation for a nonresident pupil enrolled in the district under Sections 105 or 105c or for a resident pupil enrolled in another district under Sections 105 or 105c. However, at the time of enrollment, a district shall provide to the pupil's parent or legal guardian information on available transportation to and from the school in which the pupil enrolls.

D. Regulatory References

State School Aid Act

388.1705

388.1705C